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SHORE ACCESS

# An argument over beach access in R.I. leads to a libel and trespassing lawsuit

Cooler heads are not prevailing after one particular confrontation in Charlestown earlier this summer

By [Brian Amaral](#) Globe Staff, Updated August 25, 2021, 1:33 p.m.



Beachgoers watched as larger than normal waves crash into the sand ahead of Hurricane Henri at Charlestown Breachway beach in Charlestown, R.I., on Aug. 21. STEW MILNE/ASSOCIATED PRESS

CHARLESTOWN, R.I. — Disputes over beach access in Rhode Island are not uncommon, and they often end when someone moves their chair, angrily storms off, or decides to let things settle down.


But cooler heads are not prevailing after one particular confrontation earlier this summer: A beachfront homeowner is suing a woman for trespassing on his property and for libel over her description of the episode in a Facebook group about coastal access. The woman says the man bullied her and tried to eject her from a place

where she had every right to be. The man says he did no such thing and accused her of smearing his reputation, going far beyond reasonable discourse.

The incident that sparked the atypical legal battle began on the beach in Charlestown on June 6. That much the parties can agree on. But not much else.

Sarah McKenna, who lives in Pawtucket, had been going to the beach in Charlestown her whole life, and she decided to go on that morning, one of the first nice days of meteorological summer. She set up two chairs, one for her and one for her sister, and a sun shade for her son, who is 2, she said. She was between a private home and the water, but closer to the water, near where the tide had carved a divot in the sand, she said.

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Soon after arriving, she said, a man started yelling from a distance: “Are you aware you’re on my property?” She did not originally think the man was talking to her. She believed, and still believes, she had every right to be there. But he kept approaching her with his two unleashed dogs, she said. Her sister had gone off to the bathroom, so she was alone with her son. The man eventually got about five or six feet away, she said.

Among other things, he said she was a “squatter,” McKenna said. She at one point told him he was crazy, and she tried to shoo his dogs away, but one — a chocolate lab — went into her bag and grabbed her son’s bagel, she said. The man also said at one point that she’d “have a bad day” if she stayed there, she told police.

She tried to call the police, but they did not come, she said. After a little while, McKenna’s sister came back and decided that they should leave. They got their stuff and moved about 50 feet closer to the town beach.

A few days later, her family followed up with the police, who had never responded to the scene. Police then acted and found the man, identified as James Marsh. Marsh lives in Avon, Conn., but also owns a home on Charlestown Beach Road. According to an e-mail the responding officer sent McKenna, which McKenna shared

with the Globe, the officer told Marsh to contact police in the future instead of handling it himself.

Marsh has not been charged with any criminal act in relation to the incident.

This month, still angry, McKenna described the incident to the approximately 3,000 members of a shoreline rights Facebook group.

In her post, she said that Marsh “assaulted” her, though in an interview with the Globe she said she was referring to a verbal assault, and she also considered his dogs’ actions, especially going into her bag, as problematic. But he did not physically make contact with her, she said. She also surmised in her post that he’d “had issues” before. She based that on her conversation with an officer: When she was trying to describe the person she’d had a run-in with, the officer said he thought he knew who she was talking about and sent a picture of Marsh, she said.

She also included a picture of Marsh in her post, [as well as her complaint](#) form to the police. People in the group, who often banter about shoreline access issues but are most certainly in favor of more of it, reacted with fury; one posted Marsh’s LinkedIn profile, Marsh’s lawsuit said.

It wasn’t long until lawyers representing Marsh got involved, sending McKenna a letter demanding that she take down her Facebook post. They argue that her description of the incident is patently false, damaging to Marsh’s his reputation, and libelous. It’s libelous on its face because it falsely implies that he committed a crime, they argue.

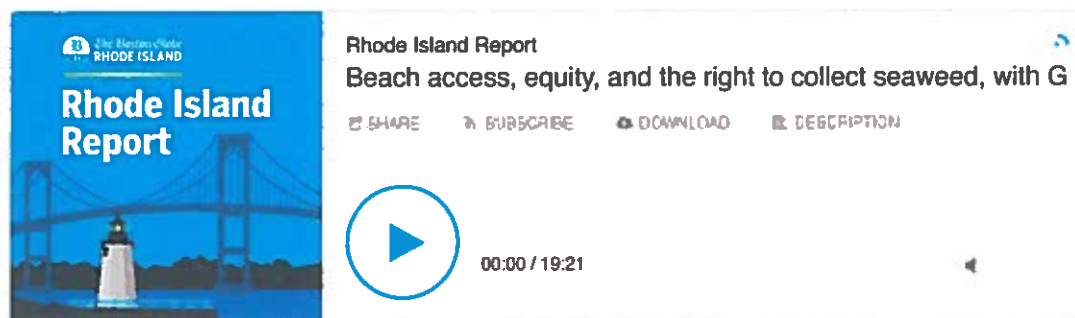
McKenna refused to take her post down. And on Aug. 19, Marsh’s lawyers filed suit in state Superior Court.

“The conduct she’s accusing Mr. Marsh of is certainly false and goes well beyond what he should have to endure as part of a normal social media discourse,” Alex Lancey, a Locke Lord attorney who’s representing Marsh, said in an interview.

According to Marsh’s lawyers, he was having a get-together with friends that day when he saw McKenna on the beach, on what he believes is his property. He asked her to move — either closer to the water, below his property line, or toward the town beach.

Marsh’s lawyers also said the Charlestown police officer did not infer anything about Marsh having prior dealings over beach access.

If it gets that far, one thing the courts may have to decide in this litigation is where private property ends and public rights begin. It could get interesting, and messy. It’s never an easy question, and many people have many different answers, both about where to draw the line and what sorts of things can happen on either side of it.



The state Supreme Court has said private property rights end at what's called the mean high tide line, which is not a line in the sand but an average taken over an 18.6-year cycle. Below that line, Rhode Islanders have the constitutional right to do things like collect seaweed and leave the shore to fish and swim. Above it, they can be convicted of trespassing — if authorities prove beyond a reasonable doubt they knew where the line was and intentionally trespassed across it.

McKenna says she was below the mean high tide line, where she has constitutional rights, and in any event, doesn't buy that anyone can eject anyone from any part of the beach even above that line.

"A long time ago, as a society, we should have put limits on what people can buy," said McKenna, 32.

Marsh, in his lawsuit, disagrees that she had the right to be where she was. He said she was trespassing by entering his property above what his lawyers described as the "high water mark." His lawyers say "the police's unwillingness was based in part on the fact that Defendant had been trespassing."

The town of Charlestown is a picturesque stretch on Rhode Island's southern coast, so these issues come up from time to time. The town administrator, Mark Stankiewicz, often has to answer private property owners' concerns. He shared one example of it with the Globe recently. He'll tell private property owners that the police generally don't issue criminal trespass citations for activities in the open seaward areas of the shoreline because it's just too hard to figure out where the line is. The complications make a conviction "near impossible," Stankiewicz has said.

But in addition to being charged with trespass in criminal court, you can get sued for it in civil court, too. That's where Marsh is seeking his recourse against McKenna, not just for libel but for trespass.

Marsh's lawyers are asking the court for compensatory and punitive damages, an injunction "preventing further trespass," and an order that she remove the posts he says are libelous.

"Ms. McKenna's social media posts have gone well beyond the scope of any appropriate and reasonable discourse, to include defamatory accusations that have been specifically rejected by the Charlestown police," said Christopher Graham, another attorney for Marsh.

McKenna, meanwhile, stands by what she said and what she did. She is seeking out legal representation and

considering an online donation drive.

“He’s claiming it’s libel when everything I said was true,” McKenna said.

And, she adds, she won’t remove her social media posts.

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